

## **REMARKS**

### **I. Status of the Application**

Claims 1-57 are pending in the application. Claims 1, 12, 23, 34, 36, 38, 40, 46 and 52, which are independent, have been amended. No new matter has been added by this Amendment.

### **II. Response to Rejections Under 35 U.S.C. §102(e)**

Claims 1-57 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 7,152,042 to Arkes (hereafter, “Arkes”).

Applicants respectfully request reconsideration of the claims in view of the amendments now presented herein. For example, independent claim 1 has been amended for further clarification to recite, *inter alia*:

“A method of conducting a customer affinity program auction, comprising:

determining a minimum opening bid price by applying an auction pricing discount factor in reward points based at least on merchandise being auctioned and the time period of the auction; and

receiving a bid of reward points from a customer using a computer terminal for merchandise being offered in the auction.”

Applicants respectfully submit that Arkes does not teach or suggest the above-recited features of independent claim 1, as amended. Specifically, Arkes does not teach or suggest determining a minimum opening bid price by applying an auction pricing discount factor in reward points based at least on merchandise being auctioned and the time period of the auction, as recited in at least independent claim 1. Independent claims 12, 23, 34, 36, 38, 40, 46 and 52 recite similar features to amended claim 1 as described herein.

The Examiner, on page four of the Office Action, asserts that Arkes discloses “determining a minimum opening bid price by applying an auction pricing discount factor in reward points based on merchandise being auctioned and the time period of the auction (see fig 12. “Minimum Opening Bid 49”);”

Applicants submit that figure 12 of Arkes merely discloses a user interface display for a browsed auction item. Indeed, the user interface displays a “Minimum Opening Bid”. However, Arkes provides no teaching or disclosure as to how the minimum opening bid is

determined. The claimed invention determines a minimum opening bid price of an item being auctioned by applying an auction pricing discount factor in reward points which is based at least on the item being auctioned and the time period of the auction. (see pages 16-19 of the Specification and figs. 6 and 14)

In view of the above, independent claims 1, 12, 23, 34, 36, 38, 40, 46 and 52 are believed distinguishable over Arkes for at least the reasons discussed above.

Reconsideration and withdrawal of the rejections of claims 1-57 under 35 U.S.C. §102(e) is respectfully requested.

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Likewise, Applicants have chosen not to swear behind the cited references or to otherwise submit evidence to traverse the rejection at this time. Applicants, however, reserve the right, as provided by 37 C.F.R. §§ 1.131 and 1.132, to do so in the future as appropriate.

Applicants have not specifically addressed the rejections of the dependent claims. Applicants respectfully submit that the independent claims, from which they depend either directly or indirectly, are in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicants, however, reserve the right to address such rejections of the dependent claims in the future as appropriate.

Applicants believe that the application as amended is in condition for allowance and such action is respectfully requested.

**CONCLUSION**

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

**AUTHORIZATION**

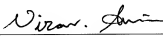
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 3951-4001. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 3951-4001. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: November 13, 2007

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